

**Amendment/Reply**

Applicant: Jerald A. Hammann

Serial No.: 09/840,332

Filing Date: April 23, 2001

Docket: H238.101.101

Title: SYSTEM AND METHOD EMPLOYING CAPACITY/DEMAND MANAGEMENT IN HUMAN-FACTOR RESOURCE INDUSTRY

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**REMARKS**

This Amendment/Reply accompanies the Request for Continued Examination (RCE) 37 CFR 1.114 and is in reply to the Final Office Action mailed January 7, 2008 and the Advisory Action mailed May 9, 2008. Claims 31-40 were rejected. With this Amendment and Reply, claims 31-35 have been amended. Claims 31-40 remain pending in the application and are presented for reconsideration and allowance.

**Double Patenting Rejection**

The Examiner provisionally rejected claims 31, 32, 33, 34, 35, and 36-40 under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1, 7, 12, 17, 22, and 66-70 of copending Application No. 09/999,378.

The present application was filed on April 23, 2001 claiming priority to U.S. Provisional Patent Application 60/198,816, which was filed on April 21, 2000. The co-pending application Serial No. 09/999,378 was filed on October 31, 2001. Since the present application is the earlier filed application of these two pending applications, Applicant respectfully requests that if the below rejections are removed that the provisional double patenting rejection to claims 31-40 based claims 2, 7, 12, 17, 22, and 66-70 of co-pending Application No. 09/999,378 be withdrawn per M.P.E.P § 804 and claims 31-40 be allowed.

**Claim Rejections under 35 U.S.C. § 103**

The Examiner rejected claims 31-40 under 35 U.S.C. § 103(a) as being unpatentable over the Hailpern et al. U.S. Patent No. 6,922,672.

The Hailpern et al. Patent does not teach or suggest the limitations of independent claims 31-35 of **accepting, via computer, transaction parameter values for composite resources, wherein each composite resource has associated therewith at least a service location and at least one of a service date and a service time.** The Examiner specifically cites the Hailpern et al. Patent at column 4, lines 28-32 which states “At step 320, it is checked if there are changes in the store conditions (such as available service capacity or inventory level) or objectives. Thus,

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for example, the inventory of a particular product may change. If the inventory or service capacity is high, then promotion may be desirable.” The Examiner also cites the Hailpern et al. Patent at column 3, lines 1-2 which states “A promotion may expire within a predetermined period of time.”

Applicant respectfully submits, however, that even though various references throughout the Hailpern et al. Patent disclose the geographic aspect of location, the geographic aspect taught in the Hailpern et al. Patent has necessary immediacy, because the Hailpern et al. system and method for providing target groups of customers with a plurality of promotions for a plurality of goods is in reference to “now.” As such, the Hailpern et al. Patent teaches away from a required date/time transaction parameter value as defined in the above-recited limitations of independent claims 31-35.

Furthermore, a promotion expiration date as disclosed in the Hailpern et al. Patent is not a service date/time as required by the above limitations of independent claims 31-35.

The Hailpern et al. Patent also does not teach or suggest the limitations of independent claims 31-35 related to **wherein the at least one service date and service time is a date and/or time measure indicating a present or future first date and/or time when the service is available.**

The Examiner asserts that “there is a timeframe from the moment the promotion is communicated to its expiration representing when the product/service is available.” However, the time-based expiration of a promotion has absolutely nothing to do with service availability as required by the above-recited limitations of independent claims 31-35.

Furthermore, the Examiner’s assertion is not correct, because service capacity may become fully booked as a result of the promotion even though the promotion has not reached its expiration time, and the same would be true for product availability in that the product might be entirely sold out.

The Hailpern et al. Patent does not teach or suggest the limitations of independent claims 31-35 related to **wherein the capacity of the at least one composite resource is a measure of on-hand supply and/or availability, if applicable, of the at least one composite resource at a**

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**first date and/or time plus a measure of an ability to produce and/or make available additional quantities of the at least one composite resource over a first date and/or time period beginning at the first date and/or time and ending at a second date and/or time.**

Firstly, the Hailpern et al. Patent does not teach or suggest how to measure capacity as required by these recited limitations of independent claims 31-35. Since the Hailpern et al. Patent does not disclose any future time, other than an expiration time, the Hailpern et al. method and system cannot measure capacity.

Secondly, the Hailpern et al. Patent does not teach or suggest how to measure an ability to produce as required by the above limitations of independent claims 31-35. Since the Hailpern et al. Patent does not teach or suggest any future time, other than an expiration time, the Hailpern et al. method and system cannot measure an ability to produce.

The Hailpern et al. Patent does not teach or suggest the limitations of independent claims 31-35 related to **wherein the demand for the at least one composite resource is a measure of the on-hand consumption and/or utilization, if applicable, of the at least one composite resource at the first date and/or time plus a measure of an ability to consume and/or utilize additional quantities of the at least one composite resource over the first date and/or time period.**

The Hailpern et al. Patent does not teach or suggest how to measure demand as required by the above-recited limitations of independent claims 31-35. Since the Hailpern et al. Patent does not disclose any future time, other than an expiration time, the Hailpern et al. method or system cannot measure demand.

Furthermore, amended independent claims 31-35 include the limitations of **wherein the at least one service availability date and time is related to the availability of at least one service provider resource comprising in part the at least one composite resource, the at least one service provider resource is a human resource, and the at least one service provider resource contributes more than a nominal amount of time to producing and/or making available the at least one composite resource.** These limitations further define and distinguish amended independent claims 31-35 from the Hailpern et al. Patent.

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The Hailpern et al. Patent discloses identifying target groups of customers and pushing promotions to them based on the relationship of the characteristic of the target group to the relation of the characteristics of the goods sought to be promoted. This is in contrast to the invention of amended independent claims 31-35 which is further defined by the above limitations to assist service providers in managing disparities between capacity and demand at any present or future date/times, wherein the at least one service provider resource is a human resource, and the at least one service provider resource contributes more than a nominal amount of time to producing and/or making available the at least one composite resource. Accordingly, the Hailpern et al. Patent does not teach or suggest these limitations of amended independent claims 31-35.

In view of the above, each independent claim 31-35 includes limitations which are not taught or suggested by the Hailpern et al. Patent, alone or in combination with the other cited references. In addition, dependent claim 36 further defines patentably distinct amended independent claim 31; dependent claim 37 further defines patentably distinct amended independent claim 32; dependent claim 38 further defines patentably distinct amended independent claim 33; dependent claim 39 further defines patentably distinct amended independent claim 34; and dependent claim 40 further defines patentably distinct amended independent claim 35. Therefore, these dependent claims are also believed to be allowable.

In addition, the Hailpern et al. Patent does not teach or suggest the limitations of dependent claims 36-40 related to **wherein, when demand exceeds capacity for the at least one composite resource, the modifying includes decreasing demand for the at least one composite resource and/or increasing the capacity of the at least one composite resource**. By contrast, the Hailpern et al. Patent only discloses increasing demand. The Hailpern et al. method and system cannot decrease demand and cannot modify capacity in any way and thus cannot increase capacity.

Therefore, Applicant respectfully requests reconsideration and withdrawal of the 35 U.S.C. § 103(a) rejection to claims 31-40, and requests allowance of these claims.

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**CONCLUSION**

In view of the above, Applicant respectfully submits that pending claims 31-40 are in form for allowance and are not taught or suggested by the cited references. Therefore, reconsideration and withdrawal of the rejections and allowance of claims 31-40 are respectfully requested.

No fees are required under 37 C.F.R. 1.16(h)(i). However, if such fees are required, the Patent Office is hereby authorized to charge Deposit Account No. 50-0471.

The Examiner is invited to contact the Applicant's representative at the below-listed telephone numbers to facilitate prosecution of this application.

Any inquiry regarding this Amendment/Reply should be directed to Patrick G. Billig at Telephone No. (612) 573-2003, Facsimile No. (612) 573-2005. In addition, all correspondence should continue to be directed to the following address:

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Respectfully submitted,

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Date: June 9, 2008  
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